IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

SATURDAY, THE 18TH AUGUST 2007 / 27TH SRAVANA 1929

WP(C).No. 21034 of 2006(D)

PETITIONER:

N. OMANAKKUTTAN PILLAI, AGED 46 YEARS,
VALIL PADINJATTATHIL (MAHESWARI MADOM)
PALAICKAL MURIYIL, THEVALAKKARA,
KOLLAM DISTRICT.

BY ADV. SRI.C.UNNIKRISHNAN (KOLLAM)
SRI.S.HARIKRISHNAN

RESPONDENTS:

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1. THE SECRETARY, KERALA STATE
HOUSING BOARD, THIRUVANANTHAPURAM.

2. THE ASSISTANT SECRETARY (LOANS),
KERALA STATE HOUSING BOARD,
KARUNAGAPPALLY.

3. THE TAHSILDAR, KARUNAGAPPALLY.

4. THE VILLAGE OFFICER, THEVALAKKARA,
KOLLAM.

R1&2 BY ADV. SRI.A.JAYASANKAR, SC KSHB, TVM
R3&4 BY ADV. G.P. SRI.P.N.SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE RECEIPT DT.23.6.2003.

P2: TRUE COPY OF ORDER DT.15.10.2004 IN O.P. NO.231/2003 OF THE CDRF.

P3: TRUE COPIES OF DDs.

P4: TRUE COPY OF LAWYER NOTICE DT.28.7.2005.

P5: TRUE COPY OF LETTER DT.12.8.2005 ISSUED BY ACCOUNTS OFFICER OF R2 TO THE PETITIONER.

P6: TRUE COPY OF LETTER DT.6.9.05 ISSUED BY R3 TO THE PETITIONER.

P7: TRUE COPY OF LETTER DT.4.6.06 ISSUED BY R3 TO R4.

RESPONDENT'S EXHIBITS:

R2(a): COPY OF DETAILED STATEMENT OF ACCOUNTS AS ON 31.8.07.

TRUE COPY

P.A. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.21034 of 2006

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Dated this the 18th day of August, 2007.

JUDGMENT

Heard counsel for the petitioner and Standing Counsel for Housing Board. The petitioner availed house building loan in the year 1998 and made part payments. However, on account of default, instalment facility was cancelled and recovery was initiated against which petitioner filed complaint before the CDRF. The CDRF did not award any compensation to the petitioner, but granted instalment facility to the petitioner to clear the arrears. The petitioner appears to have paid the arrears without any portion of the interest accrued to the loan amount. The CDRF has not exonerated the petitioner from payment of interest. Interest, therefore, should be taken as forming part of the loan that is repayable. Therefore, petitioner is necessarily bound to pay the interest. Even though the cost awarded by CDRF against the Housing Board appears to be absurd, I do not find any ground to interfere because the Housing Board has not challenged the CDRF's order. Therefore, petitioner is entitled to reduce the cost amount from loan repayment. However, petitioner is bound to pay interest on balance loan amount that is payable by him. Since Housing Board had

facility for settlement of liability under OTS scheme and since petitioner has repaid the loan amount, there will be direction to the Housing Board to grant waiver of penal interest and reduction in interest available under the OTS scheme and grant time till 30.9.2007 to the petitioner to pay the balance liability which is mostly interest, exclusive of incentives available under the OTS scheme prevalent or under the last prevalent OTS scheme if at present no scheme is there. A statement should be furnished to the petitioner showing details of debits on interest, other charges and credits for payments and reductions granted under the OTS scheme for the petitioner to check the correctness of the accounts. No collection charges should be recovered from the petitioner for payments already made and for the balance demand yet to be made as directed above. Interest should be charged until date of payment.

W.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms